

REMARKS

The Office Action mailed May 6, 2003 has been carefully reviewed and the foregoing amendment and following remarks are made in consequence thereof.

Claims 1-18 are pending in this application. Claims 1-18 stand rejected.

The rejection of Claims 1-8 under 35 U.S.C. § 103 as being unpatentable over Papadopoulos et al. (U.S. Pat. No. 6,282,454) in view of Eady et al. (U.S. Pat. No. 6,304,788) is respectfully traversed.

Applicant respectfully submits that neither Papadopoulos et al. nor Eady et al., considered alone or in combination, describe or suggest the claimed invention. As discussed below, neither Papadopoulos et al. nor Eady et al., considered alone or in combination, describe or suggest exchanging communications between the local server and a wireless Internet Service Provider (ISP) server utilizing the Internet. Furthermore, neither Papadopoulos et al. nor Eady et al., considered alone or in combination, describe or suggest exchanging communications between a wireless ISP server and a wireless user communication device.

Papadopoulos et al. describe a control system 6 that includes an Internet web interface 16 to a network that includes at least one programmable logic control system 32 that executes an application program 36 for controlling output devices 40 in response to status of input devices 40. The Web interface 16 operates Web pages from an Ethernet board 48 that is coupled directly to the PLC back plane 34, and includes an HTTP protocol interpreter 20, a PLC back plane driver 56, a TCP/IP stack 54, and an Ethernet board kernel. The Web interface 16 provides access to the PLC back plane 34 by a remote user 2 through the Internet 14. The interface 16 also translates the industry standard Ethernet, TCP/IP and HTTP protocols used on the Internet into data recognizable to the PLC 32. Using this interface 16, the user 2 can retrieve all pertinent data regarding the operation of the programmable logic controller system 6.

Eady et al. describe a system 100 containing a server 102, a network 104, and a set of clients 106 with a set of medical monitoring devices 108 connected to set of clients 106. Each of the computer systems in set of clients 106 may include a variety of hardware components that are similar to server 102. Each computer system may also be equipped with an infra-red (IR) data port for connection to set of medical-monitoring devices 108. Network 104 is a network that operates with a variety of communications protocols to allow client-to-client and client-to-server communications such as, the Internet, implementing transfer control protocol/Internet protocol (TCP/IP). Set of medical monitoring devices 108 can be made of various components that have been calibrated and are capable of providing accurate data on various vital signs. Set of medical monitoring devices 108 is controlled through the use of a respective computer in set of computer system 106 to which it is connected.

Claim 1 recites a method for controlling and monitoring an industrial controller using a portable wireless device, utilizing a system including a programmable logic controller (PLC), a local server, and a wireless Internet Service Provider (ISP), wherein the method includes “monitoring and controlling a system using a programmable logic controller (PLC)...exchanging communications between the PLC and a local server...exchanging communications between the local server and a wireless Internet Service Provider (ISP) server utilizing the Internet...transmitting commands from a wireless user communication device to the PLC using the wireless ISP server...displaying information retrieved from the PLC using the wireless ISP server.”

No combination of Papadopoulos et al. and Eady et al. describes nor suggests a method for controlling and monitoring an industrial controller using a portable wireless device, and utilizing a system that includes a programmable logic controller (PLC), a local server, and a wireless Internet Service Provider (ISP), wherein the method includes monitoring and controlling a system using a programmable logic controller (PLC), exchanging communications between the PLC and a local server, exchanging communications between the local server and a wireless Internet Service Provider (ISP) server utilizing the Internet, transmitting commands from a wireless user communication device to the PLC using the wireless ISP server, and displaying information retrieved from

the PLC using the wireless ISP server. Specifically, no combination of Papadopoulos et al. nor Eady et al. describes or suggests transmitting commands from a wireless user communication device to the PLC using a wireless ISP server and displaying information retrieved from the PLC using the wireless ISP server.

Rather, in contrast to the present invention, Eady et al. describe exchanging communications between a network (104) and a client computer system (106) and exchanging communications between client computer system (106) and a set of medical-monitoring devices (108) through an IR port, but neither Papadopoulos et al. nor Eady et al. describes or suggests transmitting commands from a wireless user communication device to the PLC using a wireless ISP server and displaying information retrieved from the PLC using the wireless ISP server, and neither Papadopoulos et al. nor Eady et al. describes or suggests a wireless ISP server. Accordingly, for at least the reasons set forth above, Claim 1 is submitted to be patentable over Papadopoulos et al. in view of Eady et al.

Although it is asserted within the Office Action that Papadopoulos et al. teach the present invention except for disclosing exchanging communications between the ISP server and a wireless user communication device, and that Eady et al. disclose exchanging communications between the ISP server and a wireless user communication device. However, Applicant submits that, in contrast to the present invention, Eady describes exchanging communications between a client computer system and a set of medical-monitoring devices through an IR port, and it is the client computer system that exchanges communications with the ISP server. Furthermore, neither Papadopoulos et al. nor Eady et al. describes or suggests a wireless ISP server.

If art "teaches away" from a claimed invention, such a teaching supports the nonobviousness of the invention. U.S. v. Adams, 148 USPQ 479 (1966); Gillette Co. v. S.C. Johnson & Son, Inc., 16 USPQ2d 1923, 1927 (Fed. Cir. 1990). In light of this standard, it is respectfully submitted that the cited art, as a whole, is not suggestive of the presently claimed invention and teach away from each other as well as the claimed invention. More specifically, Applicant respectfully submits that Papadopoulos et al., describes communicating between a user at a remote location and an Internet web site used for

monitoring a process control system and Eady et al. describe a system that communicates between a set of medical monitoring devices and a client computer system through an IR link, which is a line-of-sight link with a limited distance capability which cannot fairly be described as "remote" within the common meaning of the term. Furthermore, the present specification describes at page 5, line 27, communications between an off-site engineer and the system. Accordingly, Applicant respectfully submits that Eady et al. teach away from Papadopoulos et al. and the present invention, and as such, there is no motivation to combine Papadopoulos et al. with Eady et al. to get the claimed invention. Therefore, Applicant requests that the Section 103 rejection of Claim 1 be withdrawn.

Notwithstanding the above, the rejection of Claims 1-8 under 35 U.S.C. § 103(a) as being unpatentable over Papadopoulos et al. in view of Eady et al. is further traversed on the grounds that the Section 103 rejection of the presently pending claims is not a proper rejection. Obviousness cannot be established by merely suggesting that it would have been obvious to one of ordinary skill in the art to modify Papadopoulos et al. according to the teachings of Eady et al. More specifically, it is respectfully submitted that a prima facie case of obviousness has not been established. As explained by the Federal Circuit, "to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the applicant." In re Kotzab, 54 USPQ2d 1308, 1316 (Fed. Cir. 2000). MPEP 2143.01.

Moreover, the Federal Circuit has determined that:

[I]t is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention."

In re Fitch, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992). Further, under Section 103, "it is impermissible . . . to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." In re Wesslau, 147

USPQ 391, 393 (CCPA 1965). Rather, there must be some suggestion, outside of Applicants' disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicants' disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion nor motivation to combine the cited art, nor any reasonable expectation of success has been shown.

Claims 2-8 depend from independent Claim 1. When the recitations of Claims 2-8 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claims 2-8 likewise are patentable over Papadopoulos et al. in view of Eady et al.

For the reasons set forth above, Applicant respectfully requests that the Section 103 rejection of Claims 1-8 be withdrawn.

The rejection of Claims 9-18 under 35 U.S.C. § 103 as being unpatentable over Papadopoulos et al. in view of Eady et al. is respectfully traversed.

Papadopoulos et al. and Eady et al. are described above.

Claim 9 recites a system for controlling and monitoring an industrial controller using a wireless device wherein the system includes "a programmable logic controller (PLC)...a local server configured to exchange communication with said PLC...a wireless Internet Service Provider (ISP) server configured to exchange communication with said local server using the Internet...a wireless user communication device configured to exchange communication with said wireless ISP server."

No combination of Papadopoulos et al. and Eady et al. describes nor suggests a system for controlling and monitoring an industrial controller using a wireless device wherein the system includes a programmable logic controller (PLC), a local server configured to exchange communication with said PLC, a wireless Internet Service Provider (ISP) server configured to exchange communication with the local server using the Internet, and a wireless user communication device configured to exchange communication with the wireless ISP server. No combination of Papadopoulos et al. and Eady et al. describes nor

suggests a wireless user communication device configured to exchange communication with a wireless ISP server. Rather, in contrast to the present invention, Eady et al. describe exchanging communications between a network and a client computer system and exchanging communications between the client computer system and a set of medical-monitoring devices through an IR port, but neither Papadopoulos et al. nor Eady et al. describes or suggests a wireless user communication device configured to exchange communication with a wireless ISP server. Accordingly, for at least the reasons set forth above, Claim 9 is submitted to be patentable over Papadopoulos et al. in view of Eady et al.

Claims 10-18 depend from independent Claim 9. When the recitations of Claims 10-18 are considered in combination with the recitations of Claim 9, Applicant submits that dependent Claims 10-18 likewise are patentable over Papadopoulos et al. in view of Eady et al.

For the reasons set forth above, Applicant respectfully requests that the Section 103 rejection of Claims 10-18 be withdrawn.

In view of the foregoing remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



William J. Zychlewicz
Registration No. 51,366
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070